

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
BROWNSVILLE DIVISION**

**JUAN GARCIA ABREGO**  
**AKA Juan Garcia**  
**PETITIONER/PLAINTIFF**

**VS.**

**JEH JOHNSON, Secretary of Homeland Security,  
JOHN KERRY, Secretary of State,  
DAVID LAKEY, Texas Department of State Health Services  
UNITED STATES OF AMERICA,  
RESPONDENTS/DEFENDANTS**



**PETITION FOR WRIT OF HABEAS CORPUS AND COMPLAINT FOR  
DECLARATORY JUDGMENT**

**TO THE HONORABLE JUDGE OF SAID COURT:**

NOW COMES Petitioner/Plaintiff JUAN GARCIA ABREGO and files his Petition for Writ of Habeas Corpus under 28 USC §2241 and Complaint for Declaratory Judgment, under 8 USC §1503, 28 USC §1331 with 28 USC §2201, and seeks a declaration clarifying his status as a U.S. citizen. Texas Delayed Certificate of Birth No. 100741 records the birth of Juan Garcia as having occurred on September 13, 1944, in La Paloma, Cameron County, Texas. It was filed on May 18, 1965 by Juan Garcia, himself. A Mexican birth certificate stated that Juan Garcia was born on September 14, 1944, in El Rancho, La Puerta, Matamoros, Mexico. It was filed in Mexico on July 9, 1945. On March 13, 2013 an administrative hearing was held and the Texas Department of State Health Services denied issuance of a certified copy of a birth certificate for Juan Garcia.

## **I. JURISDICTION AND VENUE**

1. Jurisdiction lies under 8 U.S.C. §1503 (denial of rights and privileges as a U.S. Citizen), and 28 U.S.C. §1331 with 28 U.S.C. §2201, Administrative Procedure and Declaratory Judgment Acts (in order to obtain declaratory relief). Mr. Garcia is currently detained serving a life sentence.

## **II. THE PARTIES**

2. Respondent JEH JOHNSON is the duly appointed and confirmed Secretary of the Department of Homeland Security. Respondent JOHN KERRY is the duly appointed Secretary of State of the United States. Respondent DAVID LAKEY is the duly appointed Texas Commissioner of the Department of State Health Services. All are sued in their official capacities only. The United States of America is also a named Defendant.

## **III. THE FACTS**

3. Juan Garcia Abrego was born on September 13, 1944, in El Rancho, La Puerta, Matamoros, Mexico. The birth certificate was filed in Mexico on July 9, 1945. (See Exhibit A).

4. A Texas Delayed Certificate of Birth No. 100741 indicates the birth of Juan Garcia as having occurred on September 13, 1944, in La Paloma, Cameron County, Texas. The Delayed Birth Certificate was filed on May 18, 1965 by Juan Garcia, himself, as shown in Exhibit B.

5. Several attempts were made with the Texas Department of State Health Services to apply for a copy of the birth record of Juan Garcia and the requests were denied. The reason for refusal was that the Texas office had received a Mexican Birth Record which stated that Juan Garcia was born at La Puerta Ranch, Matamoros, Mexico. (See Exhibit C).

6. An administrative hearing was held on March 13, 2013, regarding the denial from the Texas State Registrar for issuing a certified copy of a birth certificate for Juan Garcia, due to information indicating that the certificate was false. The Texas Department of State Health Services found, generally, that (1) Texas Delayed Certificate of Birth No. 100741 recorded the birth of Juan Garcia as having occurred on September 13, 1944, in La Paloma, Cameron County, Texas. It was filed on May 18, 1965 by Juan Garcia himself; (2) A Mexican birth certificate indicated that Juan Garcia was born on September 13, 1944, in El Rancho, La Puerta, Matamoros, Mexico. It was filed in Mexico on July 9, 1945; (3) The State Registrar received documents which indicated that Juan Garcia's information was false and the Texas office attached an addendum on July 20<sup>th</sup>, 1993 to Juan Garcia's delayed birth certificate; (4) That the evidence presented at the hearing established that Juan Garcia was not born in Texas but in Mexico. In addition, the delayed birth certificate was filed by Juan Garcia, himself, over two decades from his date of birth. His Mexican birth certificate was filed on a date much closer to Juan Garcia's date of birth, making it more likely to show Juan Garcia's place of birth. The Texas Department of Health Services decided not to issue a certified copy of the Texas birth record to Juan Garcia and not to remove the addendum attached to the record. (See Exhibit D).

#### **IV. CAUSES OF ACTION**

##### **A. DECLARATORY JUDGMENT**

###### **8. U.S.C. § 1503 WITH 28 U.S.C. §2201**

7. Juan Garcia hereby incorporates by reference the allegations of paragraphs 1 through 6, above.

8. Juan Garcia seeks clarification of his status as a United States citizen and asks the Court to declare him a United States citizen, under 8 U.S.C. §1503.

##### **B. DECLARATORY JUDGMENT**

###### **8. U.S.C. § 1331 WITH 28 U.S.C. §2201**

9. Juan Garcia hereby incorporates by reference the allegations of paragraphs 1 through 6, above.

10. Juan Garcia seeks clarification of his status as a United States citizen and asks for a declaration that he is a United States citizen based that there is a Texas Delayed Certificate of Birth.

#### **V. PRAYER FOR RELIEF**

Juan Garcia urges the Court to clarify his status as a United States citizen and asks the Court to issue a Delcaratory Judgment, declaring Juan Garcia as a United States citizen.

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**VERIFICATION OF COUNSEL**

I, FRED KOWALSKI and IGNACIO MARTINEZ, hereby certify that I am familiar with the facts as stated above, and that they are true and correct to the best of my knowledge and belief.

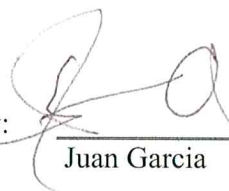
By: /S/ Fred Kowalski

FRED KOWALSKI

By: /S/ Ignacio G. Martinez  
IGNACIO G. MARTINEZ

**VERIFICATION OF PETITIONER**

I, Juan Garcia Abrego, also known as Juan Garcia, hereby declare that I am presently in the United States serving a life sentence, and currently detained at USP Florence ADMAX in Florence, Colorado. I also declare that the facts as stated above are true and correct to the best of my knowledge and belief.

By:   
\_\_\_\_\_  
Juan Garcia